

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

TYLER DIVISION

ALOFT MEDIA, LLC,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 6:08-CV-50-LED
v.	§	
	§	JURY TRIAL DEMANDED
MICROSOFT CORPORATION,	§	
et al.,	§	
	§	
Defendants.	§	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Plaintiff Aloft Media, LLC (“Aloft Media”) complains against Microsoft Corporation (“Microsoft”), Google, Inc. (“Google”), Yahoo!, Inc. (“Yahoo!”) and America Online, Inc. and AOL LLC (collectively “AOL”) (hereinafter “Defendants”) as follows:

PARTIES

1. Plaintiff Aloft Media, LLC is a Texas limited liability company with its principal place of business at 211 W. Tyler Street, Suite C-1, Longview, Texas 75601.
2. Upon information and belief, Microsoft is a Washington corporation with its principal place of business at One Microsoft Way, Redmond, Washington. Microsoft may be served with process through its Registered Agent, Corporation Service Company located at 701 Brazos Street, Suite 1050, Austin, Texas 78701.
3. Upon information and belief, Google, Inc. is a Delaware corporation with its principal place of business at 1600 Amphitheater Parkway, Mountain View, California 94043. Google

may be served with process through its Registered Agent, Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

4. Upon information and belief, Yahoo!, Inc. is a Delaware corporation with its principal place of business at 701 First Avenue, Sunnyvale, California 94089. Yahoo! may be served with process through its Registered Agent, CT Corporation Systems, 350 North St. Paul Street, Dallas, Texas 75201.

5. Upon information and belief, America Online, Inc. ("America Online") is a Delaware corporation with its principal place of business at 22000 AOL Way, Dulles, Virginia 20166. America Online may be served with process through its Registered Agent, Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

6. Upon information and belief, AOL LLC is a Delaware limited liability company with its principal place of business at 22000 AOL Way, Dulles, Virginia 20166. AOL LLC may be served with process through its Registered Agent, Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have transacted business in this district and has committed and/or induced and/or contributed to acts of patent infringement in this district.

9. On information and belief, Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged

herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

PATENT INFRINGEMENT

10. Aloft Media is the owner by assignment of United States Patent No. 7,305,625 (“the ‘625 patent”) entitled “Data Networking System and Method for Interfacing a User.” The ‘625 patent issued on December 4, 2007. A true and correct copy of ‘625 patent is attached as Exhibit A.

11. On information and belief, Microsoft has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the ‘625 patent in the State of Texas, in this judicial district, and elsewhere in the United States. Microsoft’s infringements include, among other things, making, using, offering for sale, and/or selling systems and computer software products, including without limitation: (1) the MSN services system including MSN Explorer, and (2) the Microsoft Windows Live services system and its associated computer software. Microsoft is thus liable for infringement of the ‘625 patent pursuant to 35 U.S.C. § 271.

12. On information and belief, Google has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the ‘625 patent in the State of Texas, in this judicial district, and elsewhere in the United States. Google’s infringements include, among other things, making, using, offering for sale, and/or selling systems and computer software products, including without limitation, Google Toolbar services system and its associated computer software. Google is thus liable for infringement of the ‘625 patent pursuant to 35 U.S.C. § 271.

13. On information and belief, Yahoo! has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the '625 patent in the State of Texas, in this judicial district, and elsewhere in the United States. Yahoo!'s infringements include, among other things, making, using, offering for sale, and/or selling systems and computer software products, including without limitation: (1) the Yahoo! services system including Yahoo! Browser, and (2) the Yahoo! Toolbar services system and its associated computer software. Yahoo! is thus liable for infringement of the '625 patent pursuant to 35 U.S.C. § 271.

14. On information and belief, AOL has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the '625 patent in the State of Texas, in this judicial district, and elsewhere in the United States. AOL's infringements include, among other things, making, using, offering for sale, and/or selling systems and computer software products, including without limitation: (1) the AOL services system including AOL Explorer 1.5, and (2) the AOL Toolbar services system and its associated computer software. AOL is thus liable for infringement of the '625 patent pursuant to 35 U.S.C. § 271.

15. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, such marking requirements have been complied with.

16. As a result of the Defendants' infringement of the '625 patent, Aloft Media has suffered monetary damages that are compensable under 35 U.S.C. § 284 adequate to compensate it for the infringement, but in no event less than a reasonable royalty, and will continue to suffer such monetary damages in the future unless Defendants' infringing activities are permanently enjoined by this Court.

17. Unless a permanent injunction is issued enjoining Defendants and their agents, servants, employees, attorneys, representatives, affiliates, and all other acting on their behalf from infringing the '625 patent, Aloft Media will be greatly and irreparably harmed.

18. This case presents exceptional circumstances within the meaning of 35 U.S.C. § 285 and Aloft Media is thus entitled to an award of its reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Aloft Media, LLC requests that this Court enter:

1. A judgment in favor of Aloft Media, LLC that Defendants have infringed the '625 patent, directly, and/or by way of inducing infringement by others, and/or contributing to the infringement by others;
2. A permanent injunction, enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with them from such infringement of the '625 patent;
3. A judgment and order requiring Defendants to pay Aloft Media, LLC its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '625 patent as provided under 35 U.S.C. § 284;
4. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Aloft Media its reasonable attorneys' fees; and
5. Any and all other relief for which the Court may deem Aloft Media, LLC entitled.

DEMAND FOR JURY TRIAL

Aloft Media, LLC, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric M. Albritton". The signature is fluid and cursive, with a horizontal line drawn underneath it.

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ATTORNEYS FOR PLAINTIFF ALOFT
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CERTIFICATE OF SERVICE

The undersigned certifies that this First Amended Complaint along with summonses was served on the Defendants' Registered Agents on this the 5th day of March, 2008.

A handwritten signature in black ink, appearing to read "Eric M. Albritton", written over a horizontal line.

Eric M. Albritton